

Summary of 9-26-12 interview of Tony Perez

Interview and summary by Thomas M. Patton, Deputy Attorney General

Background and Work History

Tony Perez worked 30 years for the State of California, and began his career as a crew supervisor with the California Conservation Corps. Perez came to the Department of Parks and Recreation in 1987 and completed its POST academy in 1989. Perez then served as a safety and enforcement specialist in the Department's Off-Highway Vehicle (OHV) division, and for a period of time was assigned to headquarters in Sacramento. (Tony Perez September 26, 2012 interview transcript (TPtr), pp. 6-8.)

In late 1992, when the Department was downsizing and laying people off during the "Phoenix" period, Perez spent a year with the federal Bureau of Land Management as a contracted recreation planner. Perez returned to Parks in 1994 as chief ranger. Perez then returned to the Conservation Corps around 1997 and served a year and a half as head of the emergency management division. In 1999 Perez returned to Parks as superintendent of the OHV division's Twin Cities District, and supervised the Carnegie and Prairie City off-highway vehicle parks. (TPtr, pp. 8-11.)

In approximately 2002, then-director Rusty Areias assigned Perez back to headquarters and made him superintendant of the capitol sector, which consists of museum facilities in the State Capitol Building, Sutter's Fort, and Old Sacramento. In 2004, Perez was appointed chief of the OHV division, and during that time reported to OHV deputy director Dave Widell. In approximately 2007 Perez was appointed southern division chief for parks operations and reported to then-deputy director of operations Ted Jackson. Perez became deputy director of parks operations when Jackson left the position in 2009. Perez retired in December 2011, but continued to work as a retired annuitant and thus served an additional six months as operations deputy director before leaving the position on June 30, 2012. (TPtr, pp. 12-18.)

Reserves in or Disparities in Balance Reports for the State Parks and Recreation Fund

Perez noted that the Parks system is comprised of some 20 districts headed by district superintendants who report to the northern or southern division chiefs, who in turn report to the deputy director of operations. Perez recalled that parks operations expends approximately 80

percent of the Department's budget and employs approximately 80 percent of its staff. OHV is a separate division consisting of six districts. (TPtr, pp. 2-3.)

Perez was asked if he had ever heard, outside of news media reports, anything about financial reporting discrepancies, undisclosed monies, or a reserve of monies relating to the State Parks and Recreation Fund (SPRF). Perez stated that there were rumors within the Department, primarily coming from assistant deputy director of administrative services David Saxby, that there was a lot of money in the SPRF. (TPtr, pp. 18-19.)

Perez noted that the SPRF balance fluctuated depending on the level of revenues coming in, and recalled that in the 2010-11 fiscal year there was a surplus.¹ Perez recalled that Saxby, and perhaps also chief deputy Michael Harris, mentioned there were extra monies which, as Perez recalls it, "will kind of help us make up any sort of shortfalls." Perez stated that he did not, however, know anything about a discrepancy with regard to fund reporting for the SPRF. Instead, he understood that the comments about extra monies related to fee and concession revenues that had exceeded forecasts and had not been allocated for spending. (TPtr, pp. 19-22.)

Perez then explained that since approximately 2006-07, the Legislature had annually appropriated \$6 million for maintenance and waste water projects, and the appropriation was conditioned upon the Department generating an equal amount in additional SPRF revenue beyond what was forecast. Perez noted that the Department generated the additional revenue year after year, and did not start allocating the additional funds for expenditure until perhaps the third year, when it became confident the additional revenues would be realized. Perez indicated it was his impression the reports about surplus SPRF funds involved that six million in additional revenues not initially allocated for spending. He stated that while he might have expected to hear of a \$10 million dollar surplus, he was surprised to hear there was an undisclosed excess in the SPRF in the range of \$22 million.² (TPtr, pp. 23-24.)

¹ Department records indicate SPRF revenue was \$2,294,000 above forecasts in FY 2010-11. (Exhibit L attached.)

² DOF data concerning disparities in SPRF balance reports shows the amount undisclosed to the DOF as of June 30, 2011, was \$20,378,000, and the undisclosed amount had been relatively consistent for five years. The data thus does not support the notion that all or part of the \$6 million in conditionally-appropriated funds was secreted, and a surplus built up from 2006 to the present. Instead, the undisclosed surplus grew from 1996 to 2003. (See Exhibit A attached.)

Perez recalled that he “really started to hear about” some excess and unallocated SPRF monies during the 2011-12 fiscal year, around January of 2012. Perez stated he understood any surplus funds mentioned by Saxby or anyone else to be revenues realized in excess of projections and for which there was no appropriation and spending authority. Perez stated that no one ever informed him in a straight-forward manner that surplus funds existed which had not been disclosed to the DOF. (TPtr, pp. 25-28.)

Disparities in Balances Reported for the Off-Highway Vehicle Fund

Perez recounted that during his time as an OHV field chief and superintendant he focused on operations, and left the budget issues and fund balance statement details to a “very capable budget officer” named Joan Grammer. Perez also noted that the OHV fund was separate from other Parks Department funds. (TPtr, pp. 29-31.)

Perez then recalled that the Department had been under a tremendous amount of financial pressure with its budget being continuously cut. He stated it was no secret at the OHV division that “if you had a couple of million of dollars hanging out, it was going to get swiped on the premise that it was going to be a loan. But it never got paid back.” He noted that the situation was very frustrating for the OHV division and its stakeholders. (TPtr, p. 36.)

Perez stated that he had no idea if anyone would resort to trying to hide any OHV money and did not have a clue how one would do it. He then remarked that if he did know how to hide such funds and could insure there would then be monies available to buy a piece of property for OHV, “especially when they’re like zeroing it out, man, I would have tried to figure out a way.” (TPtr, pp. 37-38.)

Continued Contacts with Parks Personnel

Perez was asked with whom he had spoken from the Department since the stories concerning the financial reporting discrepancies came out. Perez advised that he has talked with his former mentor, Dick Troy, the deputy director of operations in 2000, and also with Rusty Areias, who was director from 1999 through 2001. (TPtr, p. 39.)

Perez stated that Troy expressed surprise that such a discrepancy existed, and wondered how such money would “not show up.” (TPtr, p. 40.) Perez stated that Areias also expressed surprise over the news and confusion as to how such money could be hidden. Perez reports that

Areias asked if Perez had known about it, and Perez responded that he too was clueless. Perez further observed that Areias had a very superficial understanding of budgets and that Areias had never delved into budget details. (TPtr, pp. 42-43.)

Parks Department Interpersonal Dynamics and Concluding Comments

Perez volunteered that, having read the news reports about fund disparities, he “firmly believed” that anything chief deputy director Michael Harris knew concerning the budget and what was reported to the DOF, director Ruth Coleman would have known also. Perez stated that, with regard to anything Harris was doing at the Department, there was nothing Harris would not update Coleman about. Perez stated he was “pretty aghast and pretty upset” that Coleman would “dump it on both Manuel [Lopez] and Michael [Harris] as kind of like, no, I know nothing about it, and these guys were rogue.” (TPtr, pp. 32-33.)

Perez then observed that Harris and Coleman were both “budget geeks.” He noted that both had come from budget operations at the Legislature, and opined that both had a “very expert understanding of the budget “at a whole different level than normal.” (TPtr, p. 33.)

Perez then stated it was his opinion that Harris “absolutely” would not have made such a significant financial decision as to not disclose an excess of \$20 million in SPRF funds without having informed Coleman. Perez stated: “Knowing how Michael operated and ran, as the chief deputy director, and what he believed his responsibility was, I know for a fact, that he would have updated Ruth on every aspect of any decision that he was making, anything to do with the Legislature, the Department of Finance, any control agency.” (TPtr, pp. 35-36.)

Perez was asked if he knew whether Harris and Coleman had been close friends. Perez stated that they had been good friends at one time, and stated: “I do know that Michael was extremely loyal to Ruth - - extremely loyal to Ruth.” (TPtr, p. 46.)

Perez then advised that around November 2011, he learned from Harris and from Bill Herms, then-deputy director of legislation, that Coleman had informed both Harris and Herms that if she were confirmed as director she would make a change in the chief deputy director post then held by Harris. Perez recounted being told that Coleman’s plan was to put Herms in the chief deputy director position and move Harris to another position yet to be determined, although it was not going to be the legislative position Herms would be vacating. (TPtr, pp. 46-47.)

Perez then recounted that Coleman had informed both Harris and Herms of her plans before she had asked her superiors at the Natural Resources Agency for authority to make the move. Perez noted that when Coleman did ask she was told she could not make the move unless and until she was reappointed. Perez advised that both Harris and Herms thus returned to their posts with Harris now aware that Coleman did not want to retain him in the chief deputy director position. Perez stated that this caused some tension between Coleman and Harris, or that Perez was at least aware that Harris was frustrated by it. (TPtr, pp. 46-48.)

Perez then opined that Harris was the perfect person to be chief deputy director as he was the perfect liaison to the Department of Finance and the Legislature. Perez stated this was so because Harris could break down complicated issues and explain them in a snapshot to legislators, and because he understood the budget “inside out, down to the minutia.” Perez recalled that Harris had such expertise in finance and administrative services “because he came from that world, from the Legislature,” and because he had been the head of administrative services at both Fish & Game and at the Parks Department. However, Perez also observed that Harris was “extremely loyal to Ruth,” over and above any loyalty to the Department, and thus Harris had the “potential” to “lose [his] way.” (TPtr, pp. 48-49.)

When asked if believed Coleman understood budgets to the same detailed level Harris did, Perez stated “probably not.” Perez then observed that Coleman understood the nuances of how a budget was created and put together, and how one could work a budget in order to maximize what could be done with it. (TPtr, pp. 49-50.)

Next, Perez reiterated his belief that if Harris communicated anything to the DOF concerning the Department’s financial status, Harris would surely provide the same information to Coleman. When asked if Harris might delay informing Coleman about a discrepancy in financial reports until he completely understood the issue, Perez responded that Harris did like to be sure of his facts. Perez was then asked if it was possible Harris might not tell Coleman about the reporting discrepancy if Harris had developed a plan to deal with it. Perez responded that it was not feasible that Harris would fail to discuss the discrepancy and plan to address it with Coleman, even if it meant protecting her from unpleasant information. (TPtr, pp. 50-56.)

Perez then disclosed that he had asked Coleman to resign in February of 2012 because of the financial problems the Department faced and direction it needed to go. He noted there was a

time when he had confidence in Coleman's ability to lead, but upper level managers had lost confidence in Coleman's ability to see the Department through the difficult times ahead, and in her ability to make the difficult priority decisions that would have to be made. (TPtr, pp. 57-59.)

Finally, Perez opined that if a director had served "as a normal sort of process, four years, six years max, we would have had a director who would have come in and would have been updated on this issue, and they would have said we're declaring - - because I'm not carrying this baggage." Perez stated he believed that at some point Coleman and Harris ended up owning the problem, and they ultimately found it impossible to come clean and address it since they had failed to report the problem years earlier when they learned of it. (TPtr, p. 57.)